

occasioned by any irregularity therein or in reference thereto, that, notwithstanding there be any defect of form in the proceedings relative to any such distress, neither the distress itself shall be deemed unlawful, nor shall the party making the same be deemed a trespasser *ab initio*, but that if any irregularity be committed by any party, then, subject to the conditions in this Act prescribed with regard to actions brought for any thing done in pursuance thereof, it shall be lawful for the person aggrieved by such irregularity, and he is hereby entitled to recover full satisfaction for the special damage only, and that by action on the case, and not by any other action whatsoever.

Tender of Amends—Payment of Compensation into Court.

101. And be it enacted, with regard to any action for any irregularity or other proceeding, so far as relates to the tender of amends, or payment of money into court in respect thereof, that if, before such action be brought, the party who committed or caused to be committed any such irregularity or wrongful proceeding make or cause to be made tender of sufficient amends, then the plaintiff shall not be entitled to recover in such action; and that although such tender shall not have been made, yet if at any time before issue joined the court in which such action shall be depending, or a judge of any of the superior courts, grant leave, then it shall be lawful for the defendant to pay into court any sum of money, by way of compensation or amends, in such manner, and under such regulations as to the payment of costs and the form of pleading, as is and are customary and in force in the said superior courts.

Recovery of Money under Awards—Distress—Imprisonment.

102. And be it enacted, with regard to every sum of money by this Act, or by any award or certificate or other proceeding in pursuance of or in accordance with this Act, charged upon any person in respect of any work done in pursuance of or in accordance with this Act, so far as relates to the recovery of such sum of money, that if any party claim any such sum of money, then it shall be lawful for any one justice of the peace to summon the person on whom such sum is alleged to be charged before any two justices, or, if the matter arise within the district of the metropolitan police, then before any police magistrate having jurisdiction within that district; and if such award or certificate be produced, or if such other proceeding be proved by the oath of the party claiming or of any other credible witness, and if it be proved by the oath of such party or other witness that such sum of money is still due, then it shall be lawful for such justices or such police magistrate, and they respectively are hereby required, to issue a warrant to levy the amount thereof, and also the costs of the proceeding, to be levied by distress of the goods and chattels of the person in default; and if such person have no goods and chattels whereon to distress, or if such goods and chattels be insufficient for that purpose, then it shall be lawful for such justices or police magistrate, or for any other justice or police magistrate, to commit the person in default, until the amount of such sum so due, and of such costs, shall have been fully paid, or until the party shall be discharged by or in accordance with the provisions of any Act for the relief and discharge of insolvent debtors.

Prosecution of Offences—Complaint—Summons—Compulsory Appearance—Distress—Imprisonment.

103. And be it enacted, with regard to all offences against the provisions of this Act for which no other proceeding is provided, so far as relates to the prosecution thereof, that it shall be lawful to proceed by complaint before any one justice of the peace or before a police magistrate as aforesaid; and that it shall be lawful for such justice to summon the party against whom such complaint shall be made; and that if such party fail to appear in pursuance of such summons, then it shall be lawful for such justice or magistrate, or any other justice or magistrate, to issue a warrant under his hand and seal to compel the appearance of such party; and that on conviction of the offender before two justices or before any police magistrate it shall be the duty of such justices or magistrate and they are hereby required to cause the amount of the penalty hereby imposed in respect of such offence, and of the costs of any such proceeding in respect of such offence, to be levied by distress of the goods and chattels of the offender; and that if such offender have no goods and chattels whereon to distress, or if they be insufficient for that purpose, then it shall be lawful for such justices or magistrate, or for any other justice or magistrate, and they are hereby empowered, either on failure of such distress, or in the first instance, to commit the offender, for any period not exceeding three months, or till he shall have paid the full amount of such penalty and such costs.

Removal of Orders, &c. into Superior Courts—Certiorari.

104. And be it enacted, with regard to every order which shall be made by virtue of or under this Act, and to any other proceeding to be had touching the conviction of any offender against this Act (except proceedings touching the conviction of any person offending for carrying on a trade or business offensive, noxious, or dangerous, contrary to this Act, otherwise than those herein-before specified), that it shall not be lawful for any person to remove such order or other proceeding by certiorari, or any other writ or process whatsoever, into any of Her Majesty's Courts of Record at Westminster; and every such order and other proceeding is hereby declared not to be so removable.

Appeal from Convictions as to Penalties—Proceedings Thereon.

105. And be it enacted, with regard to any conviction for any offence in respect of which a penalty is by this Act imposed, so far as relates to the appeal from any such conviction in respect thereof, that if any party be dissatisfied with the decision of the justices in any case

in which such penalty may be proceeded for, and if within four days after such decision notice be given by or on behalf of such party to the party appealed against of his intention to appeal against such decision, and of the grounds of such appeal, and if the appellant enter into a recognizance, with two sufficient sureties, conditioned to prosecute such appeal, and to abide the order of the court, and to pay to the party appealed against such costs (if any) as shall be awarded against him, then it shall be lawful for such party so dissatisfied to appeal against such conviction to the justices of the peace at their general Quarter Sessions of the peace to be holden within four months after such conviction; and that if within such period of four days such appellant have entered into such recognizance as is herein required, then it shall be lawful for such justices and they are hereby empowered to proceed to hear and examine on oath into the cause and matters of such appeal (which oath they are hereby empowered to administer), and to determine the same, and to award such costs to be paid by either of the said parties as they think proper; and the order, judgment, and determination of the said justices shall be binding and conclusive.

Limitation of Actions for Penalties.

106. And be it enacted, with regard to every penalty or forfeiture incurred under this Act, so far as relates to the limitation of proceedings for the recovery thereof, that if within six calendar months next after such penalty or forfeiture shall have been incurred an action or proceeding be not brought or commenced against the person liable in respect thereof, then thereafter it shall not be lawful for any person to bring such action or commence such proceeding in respect of such penalty or forfeiture.

Recovery of Penalties—Appropriation—3 G. 4, r. 46.

107. And be it enacted, with regard to every such penalty or forfeiture, so far as relates to the recovery and the appropriation thereof, that it shall be lawful for any party to sue or proceed for the same, and that if such penalty be not otherwise specifically appropriated, then the person so suing or proceeding shall be entitled to receive one-half thereof for his own benefit, and the other half shall be applied to her Majesty's use, and shall be paid to the sheriff of the county, city, or town where the same shall have been imposed; and that all convictions before justices shall be returned to the Court of Quarter Sessions, under the provisions of an Act passed in the third year of the reign of his late Majesty King George the Fourth, intitled *An Act for the more speedy Return and levying of Fines, Penalties, and Forfeitures, and Recognizances entered, and shall be paid to the sheriff of the county, city, or town, and shall be duly accounted for by him.*

Regulation of Actions against Persons acting under this Act—Limitation of Action—Notice of Action—Venue in London—Venue in Middlesex—Plea and Evidence—Verdict—Costs.

108. And for regulating proceedings against persons acting in pursuance of this Act, be it enacted, with regard to any action or suit against any person in respect of any act or thing done or intended to be done in pursuance of this Act, so far as relates to the limitation thereof, and to the notification thereof to the offending party, and to the venue thereof, and to the pleadings therein, and to the evidence of the matters thereof, and to the verdict therein, and to the judgment of the Court thereon, and to the costs of such action, and to the recovery of such costs, that after the expiration of six months next after the fact committed it shall not be lawful to bring any such action or suit against any person in respect of any such act; and that if, twenty-one days at the least before the commencement of the action or suit, notice in writing of an intention to bring such action or suit, and of the grounds of action, be not given to every person against whom such action or suit shall be brought, then it shall not be lawful for any person to bring any such action or suit against any person in respect of any such act; and that if the cause or matter of any such action or suit arise within the said City of London or the liberties thereof then such action or suit must be laid in the City of London, and not elsewhere; and that if the cause of any action or suit arise in any part of the limits aforesaid out of the said City of London and liberties thereof then it must be laid and tried in the county of Middlesex, and not elsewhere; and that in every such action or suit it shall be lawful for the defendant and he is hereby entitled to plead the general issue, and at the trial to be had thereof to give this Act and the special matter in evidence, and to prove that the matter or thing for which such action or suit is brought was done in pursuance and by the authority of this Act; and that if upon the trial of such action it appear that the said matter or thing has been done by the authority or in pursuance of this Act, or if it appear that such action or suit was brought before the expiration of twenty-one days after such notice given as aforesaid, or if it appear that sufficient satisfaction was made or tendered before such action was brought, or if upon plea of payment of money into court it shall appear that the plaintiff has not sustained damages to a greater amount than the sum paid into court, or if any such action or suit be not commenced within the time herein for that purpose limited, or if it be laid in any other county or place than as aforesaid, then and in every such case it shall be the duty of the jury and they are hereby required to find for the defendant; and that, if a verdict be found for the defendant, or if the plaintiff in any such action or suit become nonsuited, or discontinue or suffer a discontinuance of any such action or suit, or if judgment be given for the defendant therein, on demurrer, or by default or otherwise, then the defendant shall be entitled to have judgment to recover full costs of suit, and to such remedy for recovering the same as any defendant shall have by law.

Security for Costs.

109. And further, for the prevention of vexatious

litigation, be it enacted, with regard to every action in respect of any matter or thing done or intended to be done in pursuance of this Act, so far as relates to the costs of such action, that if the defendant apply to the superior court at Westminster in which such action is pending, or to any judge of any of the said courts, then it shall be lawful for such court or any such judge to require the plaintiff to give such security as such court or judge shall think fit for the payment of all costs, charges, and expenses incurred or to be incurred in and about the said action, and which shall be or become payable by him on the taxation thereof by the proper officer.

Prosecutions for preventing Neglect or Evasion of this Act—Notice of Action.

110. And be it enacted, with regard to any penalty or forfeiture incurred by any default in complying with the provisions of this Act, so far as relates to proceedings for the recovery thereof, that at any time within three months after such penalty or forfeiture shall have been incurred it shall be lawful for any surveyor appointed or confirmed by virtue of this Act, and all other persons, and they are hereby entitled, to commence and prosecute proceedings for the recovery thereof, or for the recovery of the expenses of pulling down or altering of any building, against any owner, occupier, builder, workman, or other person, or for any default made in complying with the provisions of this Act: provided always, that if such proceedings be taken by any person except one of the surveyors, or except the official referees, then seven days' notice of the intention to commence such proceedings must be given at the office of the surveyor of the district, and at the office of the registrar of metropolitan buildings.

MISCELLANEOUS.

Liability of Owners and Occupiers for Expenses, &c., under this Act.

111. Provided always, and be it enacted, with regard to the owners of any building, fence, ground, land, or tenement, so far as relates to their liabilities in respect of expenses incurred in respect of such premises or otherwise, that in all cases, whatever may be the nature of the interest in any such premises of the person entitled to the immediate possession thereof, or of the occupier thereof, such person entitled to the immediate possession of such premises, or such occupier, shall in the first instance bear all costs and expenses by this Act imposed on the owner thereof, and shall perform all duties by this Act imposed on such owner; subject, nevertheless, to any right or claim which such person or such occupier may have to be repaid such costs and expenses, and to be indemnified in respect of such duties, according to the provisions of this Act, according to the nature and extent of the covenants or agreements under which such person or occupier may hold such premises, as fully and effectually as if such covenants or agreements were therein recited.

Notifications: Married Females—Infants, Idiots, or Lunatics—Owners unknown—Buildings unoccupied—Immediate Landlord—Part Ownership—Service of Notices—Damage arising from defective Service—Requisites of Notice.

112. And be it enacted, with regard to notices by this Act required, so far as relates to the service thereof upon the owner or occupier of any building, fence, land, ground, or tenement, that every such notice must be given as follows; that is to say,

If such owner be a married female, other than a restitutive trust in regard to such property, then such notice must be given to the husband of such married female; or,

If such owner be an infant, idiot, or lunatic, or cestui-que trust, then such notice must be given to the guardian, trustee, or committee of such infant, idiot, or lunatic, or restitutive trust, or,

If such owner, husband, trustee, guardian, or committee is not known, or cannot be found, then such notice must be given to the occupier of such building, fence, land, ground, or tenement, to which it shall relate; or,

If such building, fence, land, ground, or tenement be unoccupied, then such notice must be affixed to some conspicuous part of such building, fence, land, ground, or tenement, at a height of not more than nine feet from the ground:

And if the person in the occupation of any building, fence, land, ground, or tenement, in respect of which notice is to be given, allege that he is a tenant from year to year, or for any less term, or a tenant at will, and not the owner thereof, within the talent and meaning of this Act, then such notice must be given to the immediate landlord of such occupier; and it shall be the duty of such occupier and he is hereby required to inform any person by whom such notice shall be required to be given, or any other person applying on his behalf, of the name, place of residence, or place of business of such owner or landlord, or of his agent or other person by whom the rent of such building, fence, land, ground, or tenement shall be received; and if such owner or landlord be not in the receipt of the whole of the rents or profits of such building, fence, land, ground, or tenement, and if any notice shall be served upon such owner or landlord, then, immediately upon the receipt thereof, it shall be his duty and he is hereby required to transmit to his immediate landlord or his agent, and also to any other person being part owner in such building, fence, land, ground, or tenement, or in receipt of the rents or profits thereof under the same immediate landlord, or to the agent of such person, a copy of such notice; and so on in turn it shall be the duty of every landlord, agent, or other person by whom such notice shall be received to transmit it to any such landlord, agent, or other person, being part owner of any such building, fence, land,